THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 21307 of 1997

DATED: 14-02-2007

Between:-

K . Yadagiri s/o Rajaiah, 32 years, Driver, R/o Narayanakhed village and Mandal, Medak District.

...

PETITIONER

And

The A.P. State Road Transport Corporation, represented by its Director, Musheerabad, Hyderabad and two others.

...

RESPONDENTS

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W.P. No. 21307 of 1997

O R D E R

The petitioner, who was appointed as a Conductor on daily wages in 1991, was regularized in 1995. He approached this Court in 1997 contending that he ought to have regularized from the date of his initial appointment in 1991 since he was regularized pursuant to his name being sponsored through the Employment Exchange. The petitioner, having accepted appointment on daily wages and having kept quiet for nearly six years thereafter and having obtained the benefit of regularization in 1995, is not entitled, at this belated stage, to turn around and contend that his very appointment in 1991 on daily wages is illegal.

Sri P. Sridhar Rao, learned counsel for the petitioner, would place reliance of the judgment of the Supreme Court in **Divisional Manager, APSRTC and others v. P. Lakshmoji Rao and others**[1] in support of his contention that since the Supreme Court had observed that, if any juniors in the relevant seniority list of the concerned Division/Region, have been given the benefit of seniority and regularization or are entitled to get the same by virtue of judgments that have become final, the petitioner who is senior to them, shall be given the same benefit on the same principle. Learned counsel would also refer to a judgment of this

Court in "B. Ramulu v. The Divisional Manager, APSRTC, Medak Division (W.P. No. 16466 of 2005, dated 16.11.2006) wherein the learned Single Judge, following the judgment of the Supreme Court in Lakshmoji Rao[1] had directed the benefit of seniority and regularization to be extended to certain drivers who were engaged on daily wages. On a query from the Court as to who are the juniors, whose services were regularized prior to the petitioner. Sri P. Sridhar, learned counsel fairly conceded that while no specific plea had been taken in the affidavit filed in support of the writ petition, more than 18 candidates juniors to the petitioner had been regularized prior to the petitioner.

Sri V.T.M. Prasad, learned Standing Counsel for the respondents, would contend that the relief granted by the Supreme Court in Lakshmoji Rao[1] has to be construed in the facts and circumstances of the said case, and in the light of the power which the Supreme Court has to do complete justice under Articles 142 or 136 of the Constitution of India. Learned counsel would further submit that the mere fact that the services of certain juniors were regularized would not entitle the petitioner to claim the same benefit, since that would amount to perpetuating an illegality. Learned counsel would rightly point out that the mere fact that an employee has rendered continuous service under Section 25-B of the Industrial Disputes Act would not entitle him to seek regularization. Learned counsel pointed out that the only consequence of having rendered continuous service under Section 25-B of the Act is that the workman is entitled for protection under Section 25-F and G of the I.D. Act and mere continuous service as

stipulated under Section 25-B of the Act would not entitle the workman to claim regularization of service. There is no difficulty in accepting this proposition. In fact, the Supreme Court in Lakshmoji Rao[1] and **Madhyamik Siksha Parished, U.P. vs. Anil Kumar Mishra**[2] has categorically held that mere continuous service for a period exceeding 240 days in the twelve months period prior to the date of termination would not result in a daily wage employee being entitled for the benefit of regularization. At best, even if Section 25-F of the Act is violated, the workman would only be entitled to be reinstated in the very post as a daily wage employee and not entitled to seek regularization of his services.

Since no specific plea has been taken in this regard, in the affidavit in support of the writ petition, it is not necessary for this Court to go into this aspect. Ends of justice would be met if the petitioner is permitted to submit a detailed representation to the second respondent, who shall consider the same in accordance with law. Sri P. Sridhar Rao, learned counsel for the petitioner would submit that the petitioner would submit such a representation within four weeks from the date of receipt of a copy of this order. The second respondent shall consider the representation and pass necessary orders thereupon in accordance with law, within a period of three months from the date of receipt of a copy of the order.

The writ petition is, accordingly, disposed of. No costs.

RAMESH

RANGANATHAN, J
Dated: 14-02-2007
vp

[1] 2004 (3) ALD 1 (SC)

[2] AIR 1994 SC 1638